

A Response to Narveson: Why Liberty Leads to Welfare and Beyond

James P. Sterba

For many years now, going back at least to my 1988 book, *How to Make People Just*, I have been arguing that the libertarian ideal of liberty leads to welfare and beyond. And all along, Jan Narveson has been usefully offering critiques of my argument. For example, Narveson contributed to a special journal issue on my 1988 book. In the present exchange, while my argument has remained basically the same, Narveson not only offers some new critiques but also new arguments for his own view. But before I turn to those new critiques and arguments, let me first lay out the basic elements of my own view that Narveson opposes.

My argument from liberty to welfare and beyond maintains that in idealized conflict situations between the rich and poor, it can be shown that harm and interference cut both ways, that is, if the rich successfully pursue their interests, they will be harming and interfering with the poor, and if the poor successfully pursue their interests, they will be harming and interfering with the rich. Such an outcome is fatal to Narveson's version of libertarianism because he needs it to be the case that, in idealized conflict situations, the poor harm and interfere with the rich, but the rich do not harm and interfere with the poor. With that outcome, Narveson could then go on to employ a Hobbesian social contract theory, which can be interpreted to support a do-no-harm-or-interference solution, to justify his favored version of libertarianism. So if Narveson is wrong about his claim that harm or interference does not cut both ways, his whole argument collapses because then he can no longer use a Hobbesian social contract theory to support the form of libertarianism he wants.

By contrast, I maintain that there are two normative standards, the "ought" implies "can" principle, which is explicitly moral, and the standard of non-question-beggingness, which is not explicitly moral, that can readily be used where harm and interference do cut both ways. These standards applied to conflicts between the rich and the poor, once it is recognized that harm and interference cut both ways, lead to a right to welfare and beyond. As a consequence, libertarianism, with its conflicting harms and interferences

resolved in this way, as I have put it before, falls over the brink into the waiting arms of welfare liberals and socialists.¹

So how does Narveson attempt to critique this argument in his paper?² Basically, he offers two normative rules for how conflicts between the rich and the poor are to be adjudicated. The first and most important is what he calls Innocent Possession. According to this rule, the status of property is to be properly awarded initially to those who are first to take possession and use the items at issue. A second rule is that of Open-Ended Use. By this rule, property rights are guaranteed indefinitely as long as the person who acquires them by the first rule continues to use what was initially acquired.³ Now to better understand how these two rules relate to my view, it is useful to consider the following example I used in our earlier discussion to which Narveson refers in his paper.

Imagine that Narveson's ancestors in the U.S. have just entered the territory that later became the state of Kansas. Suppose that this territory when they first encountered it was unoccupied by anyone, no other European settlers, no Indians, no other living beings except nonhuman ones, both sentient and nonsentient whose moral relevance I will abstract from here. Now further suppose that the Narveson clan are very industrious and within a few days they manage to fence off what today we call the entire state of Kansas and that in no time at all they begin to grow corn on virtually all of it. Suppose that by raising corn and selling it to cattle ranchers in Colorado and Nebraska, the Narveson clan becomes very wealthy and they use their wealth to erect Corn Palaces all over the state.

Now suppose that some of my ancestors, the Sterba clan, who are down and out through no fault of their own, happen upon the scene. Imagine that my ancestors ask the Narvesons for work, but the Narvesons turn them down, claiming that their own clan supplies all the workers they need. Next my ancestors ask for charity, but again, the Narvesons turns them down, preferring to embellish their Corn Palaces to providing for my down-and-out ancestors. Imagine that what happens next is that my ancestors occupy a relatively small piece of the land that the Narveson clan had initially appropriated. My clan thus begins to grow wheat and a variety of vegetables on this land, just what they require to meet their basic needs for a decent life.

¹ "Libertarianism on the Brink," *Analyse & Kritik* (2015): 189-201.

² "A Response to Jan Narveson: Why Libertarians Are and Are Not Like Turnips," *Analyse & Kritik* (2015): 223-232..

³ Jan Narveson, "Liberty vs. Welfare Rights – Continued," *Molinari Review* I.2 (Autumn 2019): 71-83.

³ Narveson also mentions a rule of voluntary transfer, but sets it aside as nonproblematic, and I agree given completely voluntary conditions.

What happens next is crucial. One possibility is that the Narveson clan does nothing to stop my clan. Imagine that they are no longer in any sense using that piece of the land they had initially appropriated. If this occurs, then I want to claim that my clan is not actually interfering with the Narveson clan, and so, in libertarian terms, my clan has not harmed them either. Hence, no wrong has been done. Of course, the more likely possibility is that the Narveson clan will attempt to dislodge my clan from their beloved Kansas. Now if the Narveson clan were successful at this, they would be stopping, thus successfully interfering with, my clan's attempt to appropriate the land they require to meet their basic needs for a decent life. Alternatively, if the Narveson clan were not successful, then my clan would have successfully interfered with the Narveson clan, interfered, that is, with the Narveson clan's attempt to use this piece of land to add to the surplus of corn that they are selling to further embellish their Corn Palaces.

Now how should we evaluate this second and more likely possibility? Well, according to my analysis, it is a situation where harm would cut both ways: either the rich Narvesons would be harming the poor Sterbas or the poor Sterbas would be harming the rich Narvesons. Hence we need some way to resolve the conflict and here I employ either the "ought" implies "can" principle or the principle of non-question-beggingness. These principles, I claim, would favor the liberty of the poor (the Sterba clan) over the liberty of the rich (the Narveson clan).

As expected, Narveson treats the conflict differently. Employing his Innocent Possession Rule, he determines that the Narveson clan has acquired a normative property right to all of Kansas, and employing his Open-Ended Use rule, he determines that their property right continues through their conflict with the Sterba clan. So while the conflict between the rich Narveson clan and the poor Sterba clan can still occur as I described it, on Narveson's construal, the Narveson clan comes to that conflict with continuing property rights, and Sterba clan seems to come to it with no counterbalancing rights, but only with their need for help, which, in the imagined case, the Narveson clan refuses to act upon.⁴

So if we give Narveson his two rules, it might seem that the rich Narveson clan do not harm the poor Sterba. But why even give Narveson his two rules?

Let me take a step toward accommodation and grant that we do need rules of Innocent Possession and Open-Ended Use, but then offer my own versions of those rules. First, my Innocent Possession Rule gives first appropriators the right to what they appropriate provided it is required to meet their basic needs for a decent life as well as to any other goods they can so appropriate that are not required by others to meet their basic needs for a

⁴ As will be clear from my subsequent argument, appearances are deceiving here.

decent life. Then my Open-Ended Use Rule further gives first appropriators the right to continued possession as long as what they have acquired is required for meeting their basic needs for a decent life as well as a right to the continued possession of anything else they acquired that is not needed for meeting anyone else's requirements for a decent life.

So there are my rules of Innocent Possession and Open-Ending Use. So far, I have done no more than state them, analogous to the way Narveson has stated his alternative rules. However, in earlier work to which Narveson refers, I tried to more neutrally argue for my view by appealing to the "ought" implies "can" and the principle of non-question-beggingness. In his paper, Narveson interprets the "ought" implies "can" principle as simply requiring that we be capable of doing what we ought to do. He doesn't consider the interpretation that I give the principle such that it requires that the demands of morality not make unreasonable impositions on anyone. This is a requirement that he should accept whether or not he allows that it is an interpretation of the "ought" implies "can" principle. Nor does Narveson discuss at all my use of the principle of non-question-beggingness to support my view. I will come back to these two principles later.

Let me now slightly modify my Narveson clan/Sterba clan example. Suppose the Sterba clan, after having made their requests to the Narveson clan for work and charity and having been turned down, are not able to appropriate any of the land the Narveson clan had been cultivating for a surplus to support luxury consumption. Suppose that the Narveson clan have, in fact, built an impregnable glass wall around their beloved Kansas, calling it for some inexplicable reason the Wall of Trump. Imagine that the Sterba clan on the other side of that wall have nowhere else to go. Imagine that they crossed over a scorching desert to get to Kansas, hearing that it was an agriculturally rich place and resting their hopes on the possibility of appropriating land there for themselves or working for anyone who happened to be there. What they had now met up with is the Narveson clan and their impregnable Wall of Trump. So as they begin to waste away from lack of food, let us ask the question what justice requires or permits here. Narveson apparently thinks that the Narveson clan, as I have depicted them, are behaving perfectly justly as they stand by and watch members of the Sterba clan die. Why is that? The claim is that the Narveson clan got to this uninhabited land first and were the first to put the land into productive use, thus satisfying Narveson's two rules. But in so acting aren't the Narveson clan depriving any second-comers, like the Sterba clan, of the opportunity to appropriate the land themselves and similarly put it into productive use? Narveson says in his paper that late-comers do not have a right to such an opportunity. But that would only be the case if first-comers, like the Narveson clan, who clearly did have such an opportunity, are able to deny a comparable opportunity to all those who came later. But that would clearly

make those who come later worse off, unless, that is, according to the well-known Lockean proviso, there is enough and as good left in common for them. Now, in our example, the Sterba clan, unless they are able to appropriate at least some of the land that the Narveson clan have appropriated, are stuck between the Wall of Trump and a scorching desert, surely not in a place where enough and as good is left in common even for themselves. So in our example, the Sterba clan are clearly being harmed by the Narveson clan, and Narveson should grant that justice demands an appropriate corrective.

Let me now indicate how the rights of distant peoples and future generations enter my argument and how they expose a similar problem for Narveson's view to the one we have just seen with the Narveson and Sterba clan example. Recently, Peter Singer has proposed a graduated tax on the incomes of the top 10 percent of U.S. families, netting \$404 billion annually, with an equal sum coming from the family incomes of people living in other industrialized countries to meet the nutritional and other basic need of distant peoples. Singer is confident that his proposal would go a long way toward meeting basic human needs worldwide. In fact, Singer remarks that before coming up with his recent proposal, he never "fully understood how easy it would be for the world's rich to eliminate, or virtually eliminate, global poverty."⁵ Yet, while Singer's proposal would doubtless do much to secure a right to welfare for existing people, unfortunately, it does not speak very well to the needs of future generations.

How then do we best ensure that future generations are not deprived of the goods and resources that they will need to meet their basic needs? In the U.S., currently more than one million acres of arable land are lost from cultivation each year due to urbanization, multiplying transport networks, and industrial expansion. In addition, another two million acres of farmland are lost each year due to erosion, salinization, and water logging. The state of Iowa alone has lost one-half of its fertile topsoil from farming in the last one hundred years. That loss is about thirty times faster than what is sustainable. According to one estimate, only 0.6 of an acre of arable land per person will be available in the U.S. in 2050, whereas more than 1.2 acres per person are needed to provide a diverse diet (currently 1.6 acres of arable land are available). Similar, or even more threatening, estimates of the loss of arable land have been made for other regions of the world. How then are we going to preserve farmland and other food related natural resources so that future generations are not deprived of what they require to meet their basic needs? And what about other resources as well? It has been estimated that presently a North American uses seventy-five times more resources than a resident of

⁵ See Peter Singer, "What Should a Billionaire Give – And What Should You?" *New York Times* (Dec. 17, 2006): <https://www.nytimes.com/2006/12/17/magazine/17charity.t.html>

India. This means that in terms of resource consumption the North American continent's population is the equivalent of 22.5 billion Indians. So unless we assume that basic resources such as arable land, iron, coal, and oil are in unlimited supply, this unequal consumption will have to be radically altered if the basic needs of future generations are to be met. I submit, therefore, that recognizing a universal right to welfare applicable both to existing and future people requires us, absent a technological fix, to use up no more resources than are necessary for meeting our own basic needs, thus securing for ourselves a decent life but no more. For us to use up more resources than this, we would be guilty of depriving at least some future generations of the resources they would require to meet their own basic needs, thereby violating their libertarian-based right to welfare. Obviously, this would impose a significant sacrifice on existing generations, particularly those in the developed world, clearly a far greater sacrifice than Singer maintains is required for meeting the basic needs of existing generations. Nevertheless, these demands do follow from a libertarian-based right to welfare. In effect, recognizing a right to welfare, applicable to all existing and future people, leads to an equal utilization of resources over place and time.

Now it might be objected that if we did limit ourselves to simply meeting our basic needs – a decent life, but no more – we would still be harming future generations at some more distant point of time, leaving those generations without the resources required for meeting their basic needs. While our present non-conserving way of living would begin to harm future generations in, let's say, two hundred years, our conserving way of living, should we adopt it, and should it be continued by subsequent generations, would, let's assume, lead to that same result in two thousand years. So either way, we would be harming future generations.

There is a difference, however. While both courses of action would ultimately harm future generations, if we do limit ourselves to simply meeting our basic needs, a decent life but no more, and other generations do the same, then many generations of future people would benefit from this course of action who would not benefit from our alternative, non-conserving course of action. Even more importantly, for us to sacrifice further for the sake of future generations would require us to give up meeting our own basic needs, and this normally we cannot be morally required to do, as the "ought" implies "can" principle and the principle of non-question-beggingness make clear. We can be required to give up the satisfaction of our nonbasic needs so that others can meet their basic needs, but, normally, without our consent, we cannot be required to sacrifice the satisfaction of our own basic needs so that others can meet their basic needs. So while future generations may still be harmed in the distant future as a result of our behavior, no one can justifiably blame us, or take action against us, for using no more resources than we require for meeting our basic needs.

So how does Narveson attempt to counter my argument for the rights of distant peoples and further generations? He raises the following objections.

First, he objects that the rights I defend are not universalizable and that universalizability requires that all fundamental rights be negative and that there is but one such right and it is a right to liberty. The problem with this objection is that I too hold that the fundamental right is a right to negative liberty, and that what my view guarantees each person, like Narveson's view, is a certain bundle of negative liberties. It is just that there are different negative liberties in each of our bundles. Moreover, the rights I defend are just as universalizable as the rights that Narveson defends given that both (negative) welfare rights and (negative) property rights are conditional upon there being something to which they apply.

Now Narveson claims my view is not universalizable because he thinks that it doesn't permit anyone to meet their basic needs unless everyone can do so. So under conditions where you could only meet your own basic needs and not the needs of others, my theory would have no application. But this conclusion is unfounded. Under conditions where you only have enough resources to meet your own basic needs, you are not required to do more. It is here that the weaker formulation of the "ought" implies "can" principle that Narveson likes so much, comes into its own, eliminating any effective obligation to help others under those circumstances.

Narveson's second objection is to claim that to talk of harm to future generations, as I do, is cavalier because it is we, the present people, who put them there and who could choose not to put them there. The idea seems to be that if it ever becomes clear that the overuse of resources has made the planet unlivable for another generation of humans then the last generation of humans could just choose to not procreate with the result that no future generations would be harmed.

Yet what about the last generations? Suppose the principal overuse of resources happened in our times, and then by 2075 it had become abundantly clear that we had overheated the planet and that it was becoming more and more unlivable. Suppose subsequent generations reined in their consumption, but by then it was too late. So the last generation made the decision no longer to procreate to avoid bringing people into what would be a truly horrible existence. What then about that last generation and the maybe the ones immediately preceded it? Have they not been harmed by the generations from our times that overused resources and overheated the planet without having a technological fix? I claim that these future generations have indeed been harmed by the generations from our times. Just as in my example, the Narveson clan would be harming the Sterba clan by violating the Lockean proviso and not leaving enough and as good in common for the Sterba claim, so the generations from our times would be harming future generations, particularly the last generation, by also violating the Lockean proviso and not

leaving enough and as good in common for them.

Yet maybe this is not a problem for Narveson's view because he seems to embrace such disasters with no sense of injustice. For example, Narveson imagines one part of the human population living well beyond what they required for a decent life while millions of others starve to death as involving no injustice, provided that the well-to-do appropriators did not appropriate from the assets created by the starving would-be appropriators. Surely, this too would be in violation of the Lockean proviso to leave enough and as good in common for others.

So is there any reason why we should accept Narveson's rules of Innocent Possession and Open-Ended Use over alternative formulations of those rules, such as the ones I proposed? At one point in his paper, Narveson offers the following defense:

So long as we get what we do by freely made arrangement with voluntarily acting others, it cannot be true that we get what we do by worsening the lives of others.

Now I agree with Narveson's claim here, but it in no way supports his two rules. This is because in my example the arrangement that exists between the Narveson clan and the Sterba clan is anything but one that is voluntarily arrived at. Likewise, in Narveson's example, the arrangement that exists between generations from our times and what would have to be bona fide representatives of future generations is anything but a voluntary one.

A related way of arguing against Narveson's rules of Innocent Possession and Open-Ended Use and in favor of my formulations of those rules is to show that Narveson's rules cannot meet the standard of the "ought" implies "can" principle and so they cannot be reasonably required of both the rich and the poor. Nor can they be given a non-question-begging defense in the way my formulation of those rules can so defended. Still, further argument for this conclusion can be found in my book *From Rationality to Equality*,⁶ and further debate between Narveson and myself can be found in our jointly-authored book, *Are Liberty and Equality Compatible?*,⁷ and in a videoed debate with the same title that can be found on the website of the Cato Institute.⁸

⁶ Oxford 2015, paper.

⁷ Cambridge 2010, paper.

⁸ <https://www.libertarianism.org/media/around-web/are-liberty-equality-compatible>